

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 DAVID FLOYD, et al.,

4 Plaintiffs,

5 v.

08 CV 1034(SAS)

6 CITY OF NEW YORK, et al.,

7 Defendants.

8 -----x
9 New York, N.Y.
March 20, 2013
10:00 a.m.

10 Before:

11 HON. SHIRA A. SCHEINDLIN,

12 District Judge

13 APPEARANCES

14 BELDOCK LEVINE & HOFFMAN, LLP

15 Attorneys for Plaintiffs

16 BY: JENN ROLNICK BORCHETTA

JONATHAN MOORE

17 COVINGTON & BURLING, LLP

18 Attorneys for Plaintiffs

19 BY: KASEY MARTINI

GRETCHEN HOFF VARNER

20 ERIC HELLERMAN

BRUCE COREY

21 CENTER FOR CONSTITUTIONAL RIGHTS

Attorneys for Plaintiffs

22 BY: DARIUS CHARNEY

SUNITA PATEL

23 BAHAR AZMY
24
25

1 MR. MOORE: The plaintiffs will call Pedro Serrano.
2 Officer Pedro Serrano.

3 PEDRO SERRANO, 40th precinct,

4 called as a witness by the Plaintiffs,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MOORE:

8 Q. Good afternoon, Officer Serrano.

9 Could you tell us a little bit about yourself. Where
10 were you born?

11 A. I was born in Quanto, Puerto Rico.

12 Q. How old are you now?

13 A. I'm 43.

14 Q. And how far have you gotten in school?

15 A. I have about 90 credits. I have an associates degree in
16 liberal arts.

17 Q. Where is your associate degree from?

18 A. LaGuardia community college.

19 Q. Are you currently in school?

20 A. No.

21 Q. Are you married?

22 A. Yes.

23 Q. What's your wife's name?

24 A. Annabel Serrano.

25 Q. Do you have any children?

- 1 A. Four.
- 2 Q. Boys, girls?
- 3 A. Two boys, two girls.
- 4 Q. And are you presently employed?
- 5 A. Yes.
- 6 Q. Where are you employed?
- 7 A. New York City Police Department.
- 8 Q. And how long have you been a New York City police officer?
- 9 A. Approximately nine years.
- 10 Q. When did you first join?
- 11 A. '04. 2007. I did six months in the police academy and the
- 12 rest in 40 precinct to current.
- 13 Q. The rest has been in the 40th precinct?
- 14 A. Yes.
- 15 Q. So you became a police officer in July of 2004,
- 16 approximately?
- 17 A. Yes.
- 18 Q. You spent six months in the academy. Then you went to the
- 19 40th precinct?
- 20 A. Yes.
- 21 Q. Where is that located?
- 22 A. 257 Alexander Avenue, Bronx, New York.
- 23 Q. In what capacity were you assigned to the 40th precinct?
- 24 A. I have different capacities but right now I'm patrol.
- 25 Q. When you first got there what were you?

1 A. I was first -- I was the first impact class in the 40
2 precinct.

3 Q. When you say the first impact class, what do you mean by
4 impact?

5 A. Impact is when a certain precinct gets a spike in crime,
6 they get about --

7 Q. Actually Officer Serrano, if you could move a little closer
8 to the mic, because I'm having a hard time hearing you.

9 A. How about now?

10 Q. That's better. If you could pull it towards you it
11 might -- don't pull it out of the thing.

12 Go ahead. Tell us what operation impact is.

13 A. Operation impact is when a precinct has a spike in crime.
14 It could be anything. They request the bureau for some people,
15 for some officers. The precincts -- the police academy usually
16 sends about 50 to 80 cops to a precinct. They flood the zone
17 with police officers and try to lower the crime in that area.
18 I was the first one in the 40 precinct.

19 Q. And were you doing your impact work just in the 40th
20 precinct?

21 A. Yes.

22 Q. Now, how long did you do the impact work?

23 A. Approximately a year. A year to two.

24 Q. And then you became a regular patrol officer in the 40th
25 precinct?

1 A. Well, first -- about one to two years in impact. Then I
2 went to the midnights.

3 And then from the midnights I went to a detail which
4 was a summons auto.

5 And then from there I became a transport auto, which
6 all you do in transport -- you're transporting prisoners from
7 the precinct to the 40 because we had so many prisoners.

8 Then from there I went to four to twelves.

9 Q. Four to twelve tour. When you say -- after you left
10 impact, you went to the midnight tour, correct?

11 A. Yes.

12 Q. And what was the one in between that and the transport
13 auto?

14 A. I was the summons auto.

15 Q. What's that?

16 A. Get in the car. You drive around and you write summonses.

17 Q. For vehicular violations?

18 A. Mostly movers. For cars.

19 Q. So, how long have you been on the four to twelve tour?

20 A. Approximately -- I think since 2006 maybe. I'm not too
21 sure.

22 Q. And do you have a -- on the four to twelve tour have you
23 had a regular partner?

24 A. I had several. The current --

25 Q. Typically you have a regular partner, correct?

1 A. Yes.

2 Q. And who's your partner at present?

3 A. Arroyo Perez.

4 Q. And he's a police officer?

5 A. Yes.

6 Q. Patrol officer.

7 And how long has he been your regular partner?

8 A. About a year to two.

9 Q. And before that, did you have a regular partner?

10 A. Officer Chae.

11 Q. And that's spelled C-H-A-E?

12 A. C-H-A-E.

13 Q. What's his first name?

14 A. Hyon. I don't know how to spell-

15 Q. H-Y-O-N?

16 A. Something like that, yeah.

17 Q. And how did it come that you left Officer Chae and became
18 Officer Perez's --

19 A. I'm sorry. Officer Chae passed the sergeant exam. Became
20 a sergeant in Manhattan.

21 Q. Okay. So, would you say that you're pretty familiar with
22 the 40th precinct?

23 A. Very. Yes.

24 Q. So, in fact, for the eight-and-a-half years that you've
25 actually been out of the academy you've been working in the

1 40th precinct, correct?

2 A. Yes.

3 Q. What is your present assignment in the 40th precinct?

4 A. Patrol.

5 Q. On the four to twelve, correct?

6 A. Yes. Four to twelve patrol.

7 Q. And can you tell us what your main function is as a patrol
8 officer on the four to twelve shift?

9 A. Okay. Well as a patrol officer your main function is to
10 provide service. And what I mean -- what I mean by saying that
11 is it's a very busy precinct. And whenever you dial 911, the
12 911 operator contacts our central. And then our central, via
13 two-way radio, contacts the sector in concern.

14 And just to give you a little more background on the
15 40, they -- when you have boundaries in the 40 they create a
16 grid. And every square has a letter. So there will be an Adam
17 or a Charlie. Then there -- that's one sector.

18 Q. Those are called sectors, right?

19 A. Yes. Exactly. Then there's a David, Eddie, Frank. Henry,
20 Ida, John, etc.

21 Q. So you were here when Officer Polanco testified, correct?

22 A. Yes.

23 Q. And he -- let me just show you what -- a document that he
24 discussed which is Plaintiffs' Exhibit 355 which is in evidence
25 which sets out, in the patrol guide, the duties of a police

1 officer.

2 Do you see that?

3 A. Yes.

4 Q. You're familiar with that document?

5 A. Yes.

6 Q. And with respect to the duties of a police officer, they
7 would be set forth in some general detail in this document,
8 correct?

9 A. Yes.

10 Q. And you heard Officer Polanco testify to what those general
11 duties are and you agree with that?

12 A. Yes.

13 Q. One of the provisions directs that -- number one, it says,
14 "Perform duty in uniform as indicated on roll call or as
15 directed by a competent authority."

16 Do you see that?

17 A. Correct.

18 Q. That's number one.

19 What does that mean, "competent authority"?

20 A. That is a lawful order, the way I interpret it.

21 Q. That means the lawful order given by a ranking officer?

22 A. Correct.

23 Q. Any officer above -- sergeant and above, correct?

24 A. Yes.

25 Q. Police department is sometimes referred to as a

1 paramilitary organization, correct?

2 A. Yes.

3 Q. And when your supervisors tell you to do something, patrol
4 officers or police officers are expected to do it, right?

5 A. Yes.

6 Q. That's how you were trained?

7 A. Yes.

8 Q. Both in theory and in practice, correct?

9 A. Yes.

10 Q. And you see number eight it says, in this document, it
11 says, "Render all necessary police service in assigned area and
12 as otherwise directed."

13 Can you give us an example of the type of service you
14 render as a patrol officer in the 40?

15 A. Well, in the 40 it's very busy, like I said. A lot of
16 people dial 911. And when you -- when you're in the sector you
17 get calls. You get about 20 to 40 jobs a night in my precinct.
18 And it goes from backing up a -- or helping out a person who is
19 injured, car accident, deal with a car accident. An emotional
20 disturbed person. Some people have called me because their cat
21 was stuck in a pool table. That actually happened.

22 It ranges. Anything. There are calls for everything.
23 And we go and we try our best to help them. And if we can't
24 help them we give them -- we give them information to the
25 people that can help.

1 Q. And --

2 A. I'm sorry. That takes about 90 percent of my time.

3 Q. And so that would -- so that would be 90 percent of your
4 time is spent responding to radio runs?

5 A. That is correct.

6 Q. That would be typical of the duties of a patrol officer
7 patrolling in a police car, correct?

8 A. That is correct.

9 Q. And along the way in performing your duties are you asked
10 to on occasion make arrests -- not asked but do you have
11 occasion to make arrests?

12 A. Yes. I do make arrests.

13 Q. And do you have occasion to issue summons?

14 A. Yes.

15 Q. And do you have occasion to write what are known as
16 UF 250s?

17 A. Yes.

18 Q. Tell us what a UF 250 is.

19 A. UF 250 is a document that we fill out when we have a --
20 when a person is -- there's reasonable cause to suspect that a
21 person has committed, is committing, or will commit a crime.

22 And when I say "crime" I mean penal law misdemeanor
23 and felony. Does not include violations. And does not include
24 narcotics that's not out in the open.

25 Q. Let me show you on the screen the first page of Plaintiffs'

Exhibit 98 which I believe is in evidence, Judge.

And have you ever seen this patrol guide provision before?

A. Yes.

Q. And this -- the patrol guide provision applies to stop and frisk, correct?

A. Correct.

Q. And is there a portion of this document that talks about how stop and frisk applies to a felony or a misdemeanor?

If you look on the third section it says procedure.

A. Procedure. Yeah. "When a uniformed member of the service reasonably suspects --"

Q. Read slowly for the court reporter.

A. I am so sorry.

"When a uniformed member of the service reasonably suspects a person has committed, is committing or is about to commit a felony or a penal law misdemeanor."

Q. There's a definition section up there for a stop and frisk and there's a definition of stop. Can you read that for the court.

A. "To temporarily detain a person for questioning."

Q. So if you walk up to individuals on the street to ask them a question, is that a stop, according to what your understanding is of the patrol guide?

A. Just to ask them a question, no.

D3k9f1o5

Serrano - direct

1 Q. Is it fair to say that to be a stop you have to intend to
2 temporarily detain a person for questioning.

3 A. That's correct.

4 Q. And there's also a definition for search. Can you just
5 read that?

6 A. "Search. To place hands inside pockets or other interior
7 parts of clothing to determine if object felt is a weapon."

8 Q. Now is it fair to say when you're doing a stop and frisk
9 that you can only do a search of a person if the frisk that you
10 conduct gives you some reason to believe the person has a
11 weapon?

12 A. Yes.

13 Q. And how sensitive of a search can you do if in frisking
14 somebody you come upon something that you believe is a weapon?

15 A. Well it's supposed to be that area only.

16 Q. Okay.

17 A. So if there's a bulge on the right side of his waist and I
18 believe it to be a weapon, I search that area only.

19 Q. If there is -- if in searching the individual you find a --
20 something that -- a bulge in the jacket, does that give you
21 permission to go through pockets of somebody?

22 A. No. Definitely not.

23 THE COURT: I may have missed it but when did you say
24 you could do the frisk?

25 THE WITNESS: The frisk. He didn't ask me that.

1 THE COURT: I guess I am.

2 THE WITNESS: Well the frisk is -- I frisk people when
3 there is a bulge. And only in that area. So if there is a
4 bulge on his right waist and I believe it to be a weapon, I
5 frisk that area only.

6 THE COURT: So you wouldn't routinely frisk somebody
7 who is stopped for questioning?

8 THE WITNESS: No. Definitely not.

9 BY MR. MOORE:

10 Q. So you would only frisk somebody when you have reason to
11 believe that the person might have a weapon?

12 A. Yes.

13 Q. And, in fact, the definition reads, "A running of the hands
14 over the clothing feeling for a weapon," correct?

15 A. That is correct.

16 Q. So it refers specifically to a weapon?

17 A. Yes.

18 Q. So simply stopping somebody does not give you the
19 permission to frisk somebody, correct?

20 A. That's correct.

21 THE COURT: The next paragraph says -- see where it
22 says, "Number two. Frisk, if you reasonably suspect you or
23 others are in danger of physical injury."

24 THE WITNESS: Right.

25 THE COURT: And that's what you just said, right?

1 THE WITNESS: Right.

2 Q. And the third -- the one right below that it says "Search,
3 if frisk reveals object may be a weapon," correct?

4 A. Correct.

5 THE COURT: So in the frisk part you don't go inside
6 the pocket?

7 THE WITNESS: No.

8 THE COURT: That's when you go outside?

9 THE WITNESS: Only time when you go in --

10 THE COURT: That's the search.

11 THE WITNESS: Right. The only time you go in is if I
12 feel it and it's a gun. Then I go in and I pull it out. Or a
13 knife. A weapon.

14 Q. Now, over the course of your career as a police officer in
15 the New York City Police Department you've had occasion to
16 arrest people, correct?

17 A. Yes.

18 Q. And when do you believe you have the authority to arrest
19 somebody on the street?

20 A. Probable cause. When I have probable cause to believe that
21 they committed a crime.

22 Q. And have you had occasion during your -- the time you've
23 been a police officer to issue summonses?

24 A. Yes.

25 Q. And when do you believe you have the authority to issue

1 somebody a summons?

2 A. Same thing. Probable cause that they committed the
3 violation.

4 Q. And you've had occasion to conduct stop and frisks of
5 individuals, correct?

6 A. Yes.

7 Q. When do you believe that you have the authority to stop
8 somebody?

9 A. When you have reasonable cause to believe they committed a
10 criminal misdemeanor or felony.

11 Q. Is that also referred to sometimes as reasonable suspicion?

12 A. Yes.

13 Q. And have you received training on when you can make stop,
14 questions, and frisks?

15 A. Multiple trainings.

16 Q. You received training on that at the academy, correct?

17 A. I received the first one in the academy and then others
18 following that. One -- a couple at the precinct level.

19 Q. And from time to time do you receive bulletins within the
20 police department about stop and frisk issues?

21 A. At roll call we have a training officer who approaches us,
22 gives us a form just like this, shows us a bulletin here and
23 there, gives us a piece of paper, explains it short, you know,
24 briefly. And that's the extent of that training.

25 Q. Have you recently been sent, Officer Serrano, for

1 retraining on stop and frisk?

2 A. Yes, I have.

3 Q. When did that occur?

4 A. Don't know the exact date, I'm sorry. But it was within --
5 maybe like the last month.

6 Q. We'll get to that in a minute. I just want to bring up
7 that you did have the retraining.

8 Are you aware that the New York City Police Department
9 has a policy against racial profiling?

10 A. Yes.

11 Q. Have you ever received any training in the New York City
12 Police Department on that policy?

13 A. Yes.

14 Q. What was the extent of the training you received on that?

15 A. Same like the 250. At the academy they had a class on the
16 250. They gave you bulletins and papers. And had a speech
17 about it. And then at the -- every now and then it pops up at
18 roll call with the training supervisor and hands out bulletins,
19 gives a quick description of the training and that's it.

20 Q. When you say a description of the training, do you mean
21 that the training officer reads the policy against racial
22 profiling?

23 A. Yes. He reads it off the --

24 Q. And beyond that, have you ever received any training beyond
25 just the reading of the policy?

1 A. Not that I remember.

2 Q. Tell us what the command structure of the 40th precinct
3 is.

4 A. Well at the top is the commanding officer, Deputy Inspector
5 McCormack.

6 Q. He's currently the commanding officer, Deputy Inspector
7 Christopher McCormack?

8 A. Yes. Christopher McCormack is the commanding officer.

9 Then right under him is the executive officer, which
10 is -- don't know her first name, but she's Captain Matarasso,
11 the executive officer.

12 After her is the admin lieutenant, which is Lieutenant
13 Patelli.

14 And after him is the integrity control officer,
15 Lieutenant Alba.

16 And then after them would be the lieutenant platoon
17 commanders. The only one I know of is two of them which is
18 Lieutenant Bucci. He's the -- he's in day tours.

19 And my lieutenant platoon commander is Lieutenant
20 Mack.

21 Q. What's that last one?

22 A. Mack M-A-C-K. Like the Big Mack.

23 Q. And then there are platoon commanders for the three tours
24 of duty?

25 A. Yes. I don't know who the midnight.

Serrano - direct

1 Q. Below that would be sergeants who are squad supervisors
2 within each platoon?

3 A. Yes. I'm sorry. After the lieutenant there's the squad
4 supervisors. They are sergeants. There's one for every
5 platoon.

6 Q. Let me ask you --

7 A. Squad.

8 Q. Who is your current supervisor?

9 A. Sergeant Monroe.

10 Q. And how long has he been your supervisor?

11 A. Approximately two years.

12 Q. Are you evaluated by the New York City Police Department?

13 A. We -- right now -- if I may, I saw a monthly sheet there.
14 It has changed from -- since Officer Polanco has been active, I
15 guess, it's now -- that was a monthly. Now they evaluate us on
16 a daily, weekly, monthly, quarterly, yearly level. So they are
17 constantly monitoring us.

18 Q. And on a monthly basis does the evaluation consist of
19 simply putting down numbers and requests for excellence report?

20 A. That's it. You put down what you did for that day, how
21 many complaints you wrote, how many ADA cards you wrote, how
22 many car accidents, how many summons, arrests, how many 250s.
23 It's just a bunch of numbers on a piece of paper depicting what
24 I did all day long.

25 Q. Who gets that report?

1 A. On a weekly basis, the sergeant is supposed to -- every
2 seven days he's supposed to look at it. And I think grade it
3 and see if I was an effective officer for that week.

4 Q. And is the exchange with the -- with your squad supervisor,
5 is there any substance to it in terms of going through the
6 actual nature of an arrest or a stop and frisk or a summons or
7 is it just an evaluation of the numbers?

8 A. What he normally does, he looks at it. If I don't have a
9 specific amount of activity -- usually the first week he's not
10 going to bother you, because you have the whole month to catch
11 up. But he will look at it and sign it. And if it gets
12 towards the end, he'll let you know if you're lacking in
13 activity.

14 Q. My question though is -- I appreciate that. But my
15 question is: Do you ever discuss with your squad supervisor,
16 say for instance, the underlying facts regarding a particular
17 stop and frisk?

18 A. No.

19 Q. That's not part of the process?

20 A. No.

21 Q. Let me ask you this directly, Officer Serrano. To your
22 knowledge, has the NYPD imposed quotas for enforcement activity
23 on you and your fellow officers?

24 A. Yes.

25 Q. And can you tell us what kind of things that they say to

Serrano - direct

1 you about your activity?

2 A. Well it's not enough. It's too low.

3 Q. So essentially if your numbers are not high enough bring
4 your numbers up?

5 A. Well if I'm going to be specific I was told once by
6 lieutenant -- I'm trying to remember his name -- but he told --
7 I had a real good month. I had about three arrests, about 20
8 summonses. And you know A, B, C, a mixture. And I didn't have
9 any 250s. And he mentioned it. You know. I had a very busy
10 week. I answered a lot of jobs. Did a lot of work. And I
11 thought I was going to get praise that month. And he came up
12 to me and said you need more 250s. I was like really.

13 Q. Who was that?

14 A. I'm trying -- I don't know. It's a lieutenant. He
15 retired. This happened a while ago.

16 Q. Okay. All right. But while in the 40th precinct, right?

17 A. Yes.

18 Q. What is your basis for your knowledge that the NYPD, in
19 your judgment, imposes quotas for enforcement activity on you
20 and your fellow officers? What's your basis for your knowledge
21 of that?

22 A. The basis is they tell you to your face. They tell you at
23 roll call. They pull you to the side and tell you. Also you
24 get retaliated against. I've gotten retaliated against because
25 I didn't meet the quota. Again, I might have enough arrests,

Serrano - direct

1 but I might not have enough C summonses for them. So they go
2 after that.

3 But again it's -- they do retaliate. And they tell
4 you that I need the specific number.

5 Q. Is that also something that's reinforced by your union
6 delegates?

7 A. Yes. There were two trustees during an election. And I
8 wrote an affidavit depicting that they were forcing me to --

9 MS. COOKE: Objection, your Honor, to the extent the
10 witness is testifying about a written affidavit. That's a
11 hearsay statement.

12 THE COURT: Sustained.

13 MR. MOORE: I'm sorry.

14 THE COURT: She's objecting to his out-of-court
15 statement.

16 MR. MOORE: To his out-of-court statement?

17 THE COURT: Yes.

18 Q. Leave out what you wrote and tell us what you -- tell us
19 what this example is.

20 A. Okay. Well I told him that I was being --

21 MS. COOKE: No.

22 THE COURT: Still the same thing.

23 MR. MOORE: It's what he says, Judge.

24 THE COURT: I know. That's an out-of-court statement.

25 MR. MOORE: They can cross-examine.

1 THE COURT: I understand that. But it's still a
2 hearsay statement.

3 MR. MOORE: All right. Fine.

4 Q. Can you tell me who of your supervisors that you mentioned
5 have told you that in sum and substance that there are quotas
6 within the New York City Police Department?

7 A. Many. I'm sorry.

8 Q. Present squad supervisor, has he told you that?

9 A. Sergeant Monroe. Sergeant Bradway. Sergeant Bloom --
10 lieutenant -- that name is going to come to me.

11 Q. Dutae?

12 A. I'm sorry. Lieutenant Dutae.

13 Q. I thought that was the one that was -- I don't mean to --

14 A. There's another -- there's Lieutenant Dutae. There's
15 lieutenant -- the ICO Lieutenant Barrett. They have given me
16 specific numbers in a specific area within a specific
17 timeframe. And if I don't write them I will be retaliated
18 against.

19 Q. And when they talk to you -- does that also include Captain
20 Matarasso and Deputy Inspector McCormack?

21 A. Yes.

22 Q. When they talk to you about your numbers, is it other than
23 that or is it just basically your numbers?

24 A. It's --

25 Q. Do they go into the substance of what your activity is?

1 A. No. They just -- they tell you exactly what you -- you
2 don't have enough of.

3 Can I speak about evaluation?

4 Q. I'm sorry?

5 A. I had the evaluation with Captain Matarasso.

6 Q. Right. We'll get to that in a minute.

7 A. Well, yeah, they tell you specifically what you're lacking
8 in.

9 Q. So, when do you believe that these -- when did you first
10 become aware that NYPD was, in your judgment, imposing quotas
11 on your -- for your enforcement activity?

12 A. (No response).

13 Q. When did you first become aware of that?

14 A. Well it's immediately. It shows up immediately when you
15 come out of the police academy. But I would call that a soft
16 quota. I wasn't really retaliated against. They just give you
17 a number. I remember the four and -- one arrest a quarter, and
18 20 summonses. But they really didn't come after me then.

19 2007 is when the 1 and 20 came into play, which is one
20 arrest, twenty summonses. And, again, the twenty summonses
21 were not anything. They are specific. They would say I need
22 five C summonses, which are criminal court summonses. I need
23 five B summonses, which are movers.

24 Q. When you say movers, what do you mean?

25 A. When you're in a car and you have a cellphone and they give

1 you a summons for that. Anything in a car is basically -- when
2 I write a summons it's called a B summons, which in traffic
3 court is where you have to answer it. And the other summons is
4 A summons which is a parker. And they would say five, five,
5 and five. And then the other five would be up to us.

6 But it would definitely be those summons, the 250s,
7 and the arrests.

8 Q. So in addition to the summonses and arrests there's also --
9 you believe there's also a quota with respect to your 250
10 activity, correct?

11 A. Yes.

12 Q. Now, Officer Serrano, are you -- do you have any concern
13 about testifying here today?

14 A. Oh, definitely.

15 Q. What's that concern?

16 A. Retaliation which it has already started. And I fear that
17 they're going to try to set me up and get me fired somehow.

18 Q. Why do you believe that?

19 A. Again, it already started. The minute -- 2007, again, I
20 was scared. But I knew that certain things were wrong so I
21 started taking notes and just recording stuff. But, again, too
22 scared to come out.

23 And recently when I finally mentioned something and I
24 called IAB, the minute -- I'm sorry. The minute I made it, I
25 guess, known that I was going to testify in this court,

D3k9flo5

Serrano - direct

1 captain -- Deputy Inspector McCormack when he came back from
2 CompStat started to just do things. And one of the things that
3 he did was he immediately called me into his office and -- I
4 appealed my evaluation. So he said that that -- under the
5 pretense of appealing my evaluation, he called me into his
6 office with -- can I go into that?

7 Q. You can tell us who it was. We'll get into your
8 evaluation, some of which is on an audio recording but --

9 A. Well he did a lot of things to retaliate.

10 Q. Okay. My question really goes to you have some fear of
11 getting up here and testifying and the way you're testifying
12 about what's going on in the New York City Police Department,
13 correct?

14 A. Yes. I have fear to go -- my first day starts in three
15 days. I can imagine what my first day is going to be like.

16 Q. Your first what?

17 A. My first day at work.

18 Q. Your first day back at work?

19 A. From my regular day off.

20 Q. When you say that you have been retaliated against, can you
21 tell us in what ways you've suffered retaliation for --
22 withdraw that.

23 Have you expressed your opinion to your supervisors
24 that you believe that using quotas are illegal?

25 A. Yes, I have.

1 Q. And when did you first begin to do that?

2 A. I've been protesting 2007, 2008. I've been verbally
3 telling my supervisors that this is wrong, this is wrong, this
4 is wrong, and they're constantly telling me: Hey this is the
5 way it is. It's been done this way forever. You can't fight
6 that losing battle.

7 Q. And as a result of your coming forward and having that
8 discussion with your supervisors, do you feel that you've been
9 retaliated against?

10 A. Yes. Definitely.

11 Q. In what ways?

12 A. Well someone took my locker and they moved it so all the
13 contents were tossed everywhere. They put a lot of stickers of
14 rodents on my locker.

15 Q. What did that mean to you?

16 A. That I was a rat.

17 Q. And what's the significance of being labeled a rat when
18 you're a member of the New York City Police Department?

19 A. Usually if you call IAB in reference to another police
20 officer, you're called a rat. But the inspector has a lot of
21 friends. And they are very upset about what I did.

22 MS. COOKE: Objection, your Honor. To the extent he's
23 testifying about --

24 THE COURT: To the extent he's just describing they
25 were very upset.

1 How do you know that? Did you see the upset? Did you
2 see it yourself?

3 THE WITNESS: Yes, yes.

4 THE COURT: What did you see?

5 THE WITNESS: My, what do you call it, my PBA rep,
6 he -- we used to be good people. Now he talks to me -- he
7 yells at me. He has very smart -- smart -- as soon as it was
8 known that I did this, he's just -- doesn't even want to look
9 in my direction.

10 THE COURT: I'll allow that. That's what he observed.

11 Q. So once you came forward you believe the -- at least
12 certainly the atmosphere for you within that precinct changed,
13 correct?

14 A. Definitely.

15 MR. MOORE: Judge, I notice it's 4:30. It would be a
16 good point to --

17 THE COURT: Okay. Good. We're done for the day. See
18 everybody tomorrow at 10:00. Thank you.

19 (Adjourned to March 21, 2013 at 10:00 a.m.)
20
21
22
23
24
25

INDEX OF EXAMINATION

Examination of:	Page
ADHYL POLANCO	
Direct By Mr. Charney	445
Cross By Ms. Cooke	508
Redirect By Mr. Charney	575
Recross By Ms. Cooke	589
PEDRO SERRANO	
Direct By Mr. Moore	635

PLAINTIFF EXHIBITS

Exhibit No.	Received
284	465
98	506
419 and 420	552

DEFENDANT EXHIBITS

Exhibit No.	Received
X-11	552